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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,485	12/30/2003	Jon Arthur Roepke	9D-HL-25191	8742
7590	12/11/2008		EXAMINER	
John S. Beulick Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			RIGGLEMAN, JASON PAUL	
			ART UNIT	PAPER NUMBER
			1792	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/748,485	ROEPKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JASON P. RIGGLEMAN	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 November 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1, 3-7, and 9-26 is/are pending in the application.

4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-7,9-12,25 and 26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: Foreign reference.

## **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/2008 has been entered.

### ***Status of Claims***

2. Applicant's amendment, filed 11/17/2008, is acknowledged. Current pending claims are 1, 3-7, and 9-26. Claims 13-24 are withdrawn from examination. Claims 2 and 8 are cancelled. Claims 1, 7, and 25 are amended.

### ***Response to Amendment***

3. Applicant's arguments with respect to claims 1, 3-7, 9-12, and 25-26 have been considered but are moot in view of the new ground(s) of rejection. The 112, second paragraph, rejection of claim 1 is maintained. The annular space limitation in the preamble does not constitute a presence in the body of the claim. The applicant has amended the claims to incorporate controller method detail. The apparatus claims have been amended to claim a controller configured to perform an operation such that the claimed controller, itself, is given patentable weight; however, the remainder of the claimed controller "structure" is merely a *description of a specific sequence of steps of operation* (such as to "automatically adjust a dispense time to dispense the diluted additive corresponding to at least one of a selected wash cycle of a plurality of wash cycles and a user adjustment made during the selected wash cycle") of the controller and constitutes a method. The order and specific operations of the control

method is not given patentable weight. For purposes of examination, any controller which may be programmed to operate the valves in the desired fashion anticipates the invention structurally and is capable of performing the claimed sequence of steps is so desired. The applicant is encouraged to incorporate relevant, if any, structural limitations to the claims. The applicant's argument that Je does not teach a controller is piecemeal since the 103(a) rejection stated "Je does not teach a controller configured to control a water valve and that the valve dispenses during a selected wash of a plurality of wash cycles; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle*, 188 USPQ 7). Je teaches that the water is added at a predetermined time set up by the user. The supplying of the water to the dispenser causes the diluted additive to be added to the basket. It would be obvious (if not inherent) to utilize valves to control the water flow and a controller to control the timing of the operation of the valves to correspond to multiple wash cycles. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je to create a washing machine with a programmed control of additive dispensing to achieve the expected result". Support for the pervasiveness and obvious of the use of programmable controllers is provided by Tessarolo (UK Patent Application GB2001454) which teaches a controller which operates electrical valves (Line 124). This rejection is maintained.

***Remarks***

4. For purposes of examination, "top cover" in claim 1 is assumed to be the top cover 54 of the washing machine described in the applicant's specification, paragraph [0022], Fig. 3. This assumption was confirmed as correct in the applicant's reply filed on 3/19/2007.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 recites the limitation "the" in "annular space" there is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-7, 9-12, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Je (Korean Publication No. KR2003055965) in view of Olding (US Patent No. 3118297)

9. Je teaches an additive dispensing system for a washing machine 1 including a tub 5, for holding wash liquid, and a basket 6, for holding articles to be washed. The additive dispensing system includes a top cover 30. A reservoir 40 is removably coupled to the top cover 30 and is configured to contain an additive, Fig. 2. A plurality of tabs 37 extend from the top cover 30, Fig. 4. The plurality of tabs engage a top cover 20 of the washing machine 1 to couple the reservoir cover 30 to the top cover 20. An opening 33 is present in the reservoir cover 30 and an opening is present the top cover 20, Fig. 3 which remains after assembly of the two components. An annular space is defined between the tub and basket, Fig. 1. The reservoir is emptied by a siphon tube (siphon pipe 43). The reservoir includes a removable cover coupled the top cover 20 and the conduit comprises a siphon -- siphon cap 50 and siphon pipe 43, Fig. 8. The reservoir

includes an overflow port 48. The top cover includes an opening therethrough, with the opening in fluid communication with said reservoir for introducing the additive into said reservoir. The siphon tube empties through the pass station 65 and through a through-hole 68 to be dropped into the intervening space of the washing tub and water tank (English Machine translation of Je (Korean Publication No. KR2003055965). The water supply mouths (49, 49)' supply the water to the reservoir (and hence diluted additive to the basket) at a predetermined time, pgs. 3-4, of KIPO machine translation of KR2003055965.

**10.** Je does not teach a controller configured to control a water valve and that the valve dispenses during a selected wash of a plurality of wash cycles; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle*, 188 USPQ 7). Je teaches that the water is added at a predetermined time set up by the user. The supplying of the water to the dispenser causes the diluted additive to be added to the basket. It would be obvious (if not inherent) to utilize valves to control the water flow and a controller to control the timing of the operation of the valves to correspond to multiple wash cycles. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je to create a washing machine with a programmed control of additive dispensing to achieve the expected result. Note: support for the pervasiveness and obvious of the use of programmable controllers is provided by Tessarolo (UK Patent Application GB2001454) which teaches a controller which operates electrical valves (Line 124).

**11.** Je, as modified by above, does not teach a conduit extending into the annular space (such that the diluted additive is not directly added to the articles within the basket); however, Olding teaches a conduit 86 which extends into the annular space between a basket and tub, Fig. 3. The

conduit is advantageous for adding a bleaching agent without damaging clothing (Column 3, Lines 10-36). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je, as modified above, with Olding, to create a washing machine bleach dispenser which further limits the possibility of damage to clothing by undiluted bleach addition.

12. In regards to claims 4 and 10, Je, as modified above, as modified by Olding, does not teach a siphon tube coupled to the removable (reservoir) cover; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle*, 188 USPQ 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Je, as modified above as modified by Olding, to make the siphon caps integral with the removable cover to achieve the expected result of stably positioning of the siphon caps on top of the siphon pipes.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON P. RIGGLEMAN whose telephone number is (571)272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 1792

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